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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,983	05/08/2000	GUSTAVO DECO	P000861	5072

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EXAMINER

OROPEZA, FRANCES P

ART UNIT PAPER NUMBER

3762

DATE MAILED: 11/18/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/530,983

Applicant(s)

DECO ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

J. W.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 04 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


ANGELA D. SYKES

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 3700

FRANCES P. OROPEZA

ART UNIT 3762

11-14-03

Continuation of 5. does NOT place the application in condition for allowance because:

The Applicant's arguments filed 11/4/03 have been fully considered but they are not convincing.

The Applicant asserts the Examiner stated in the 10/6/03 Advisory Action "'predicting the occurrence of an abnormal event".. (is) not positively recited in the body of the independent claims and therefore has not been give patentable weight". The Examiner disagrees. The Examiner stated in the 10/6/03 Advisory Action that "In response to the Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted the features upon which the Applicant relies (i.e. predicting the occurrence of an abnormal event) are not recited in the rejected claims." The Examiner has again review the independent claims 1, 16, 17 and 18 and is unable to find the limitation of "predicting the occurrence of an abnormal event" in these claims. In addition, there was no comment in the 10/6/03 Advisory action that the phrase limitation "predicting the occurrence of an abnormal event " was not being given patentable weight.

In response to the limitation of "predicting an abnormality of a dynamic system" being found in the preamble, not being positively recited in the body of the independent claims, and not being given patentable weight, the Examiner notes "predicting an abnormality" is found in the bodies of the independent claims (claim 1 at line 15; claim 16 at line 14; claim 17 at line 12; claim 18 at line 5) and had been given patentable weight. The limitation "a dynamic system" is found in the preamble of claims 1, 16, 17, and 18 and is recognized as providing context for the use of the invention but is not viewed as providing a structural limitation (claim 1) or procedural/ step limitations (claims 16, 17 and 18) for the instant invention. Ravdin et al. teach predicting the future occurrence of medical condition that has not occurred, such as psychiatric problems, hence teaching predicting an abnormality (a psychiatric condition) of a dynamic system (the human's mental condition) (abstract; col. 3 @ 19-28).

The Applicant correctly states two articles by the Applicant are noted in the specification (paragraph 0002). The Apppplicant correctly states these two articles were submitted in an IDS (Paper No. 3). The Applicant asserts because the articles are noted in the specification, the articles are submitted in an IDS, and the correlation of the information in the articles is linked to the specification during prosecution, the definition of information flow in the articles defines information flow for the Applicant's invention. The Examiner disagrees. The two articles noted in the specification were not incorporated by reference. In addition, the purpose of an IDS is to make the Office aware of all teachings material to patentability (37 CFR 1.56), and not to convey portions of the original disclosure. The definition of information flow for the instant application is limited to the definition in the original specification. The continuous information flow as taught by Ravdin et al. of using a neural network of numerous forms and statistical natures (abstract; col 3 @ 66 - col. 4 @ 14) is read as teaching the use of information flow based on statistical dependencies (specification, paragraph 0003).

In response to the Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e. characterization of a dynamic system (including statistical dependencies between past and future points in time)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant stated previous remarks from the Response filed 9/10/03 regarding the non-obviousness of the proffered combination are incorporated herein by reference, and the Applicant maintains support of the same. The Examiner provided a response to the Applicant's arguments of 9/10/03. Given the Applicant has provided no additional comments relative to the Examiner's reponse regarding the motivation to combine the references, the Examiner does not understand the Applicant's concerns and no further response is being provided by the Examiner regarding the asserted non-obviousness issue.

The rejections of record stand.

FPO
11/14/03